IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

Crl.MC.No. 3004 of 2007()

C.M.P.NO.1185 OF 2005 OF Judicial Magistrate of the First Class (Mobile Court) Kottayam

PETITIONER: ACCUSED

K.K.RAJAN, AGED 60 YEARS, S/O. KUMARAN,
KUNNATHEL HOUSE, THALAYOLAPARAMBU P.O.,
VAIKOM TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.ALIAS M.CHERIAN

RESPONDENTS: COMPLAINANT

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1. MR. K.M.PHILIP,
ELAYIDATHUMATTATHIL HOUSE, PIRAVAR,
KIDANGOOR, KOTTAYAM.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3004 of 2007

Dated this the 27th day of September, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. The offence was committed in the district of Kottayam, which comes within the jurisdiction of C.J.M, Kottayam. The learned C.J.M had taken cognizance of the offence under Section 138 of the Negotiable Instruments Act alleged against the petitioner. The learned C.J.M after taking cognizance has made over the case to the Judicial Magistrate of the First Class (Mobile) Kottayam. The petitioner has come to this Court with a grievance that no part of the cause of action has arisen within the jurisdiction of Judicial Magistrate of the First Class(Mobile), Kottayam or the C.J.M, Kottayam. Jurisdiction rightly vests in the Judicial Magistrate of the First Class, Vaikom within the district of Kottayam, where the bank is situated and where the offence is committed. In these circumstances, it is prayed that appropriate directions may be issued, as the C.J.M, Kottayam and the Judicial Magistrate of the First Class (Mobile) Kottayam are having no territorial jurisdiction to deal with the matter in the light of the decision in **Ahammedkutty Haji v. State of Kerala** [2007(1) KLT 68].

2. I find no merit in this contention at all. The learned Chief Judicial Magistrate does not lack jurisdictional competence to take cognizance of any offence committed within his jurisdiction, ie. within the district of Kottayam. In view of that, the cognizance taken by the learned C.J.M, Kottayam cannot be faulted. The C.J.M has jurisdictional competence under Section 410 Cr.P.C to make over a case, of which cognizance has been taken by him to any other Magistrate within his jurisdiction. It is accordingly that the C.J.M has made over the case to the Judicial Magistrate of the First Class (Mobile) Kottayam. The Judicial Magistrate of the First Class (Mobile) Kottayam does not exercise original jurisdiction, but only exercises jurisdiction consequent to the order passed by the learned C.J.M making over the case to that court. In these circumstances, I find no merit in the contention that the cognizance taken is without any jurisdictional competence.

3. The learned counsel for the petitioner then submits that a connected case is pending before the Judicial Magistrate of the First Class, Vaikom and therefore there may be a direction that both cases shall be disposed of by the same court. I am of opinion that no such direction need be issued by this Court in this petition under Section 482 Cr.P.C. It is for the petitioner to approach the C.J.M under Section 410 Cr.P.C on the administrative side or the learned Sessions

Judge under Section 408 Cr.P.C to pray for such transfer if the prayer of such transfer is necessary and justified.

4. This Crl.M.C is, in these circumstances, dismissed, but with the above observations.

(R.BASANT, JUDGE)

rtr/-